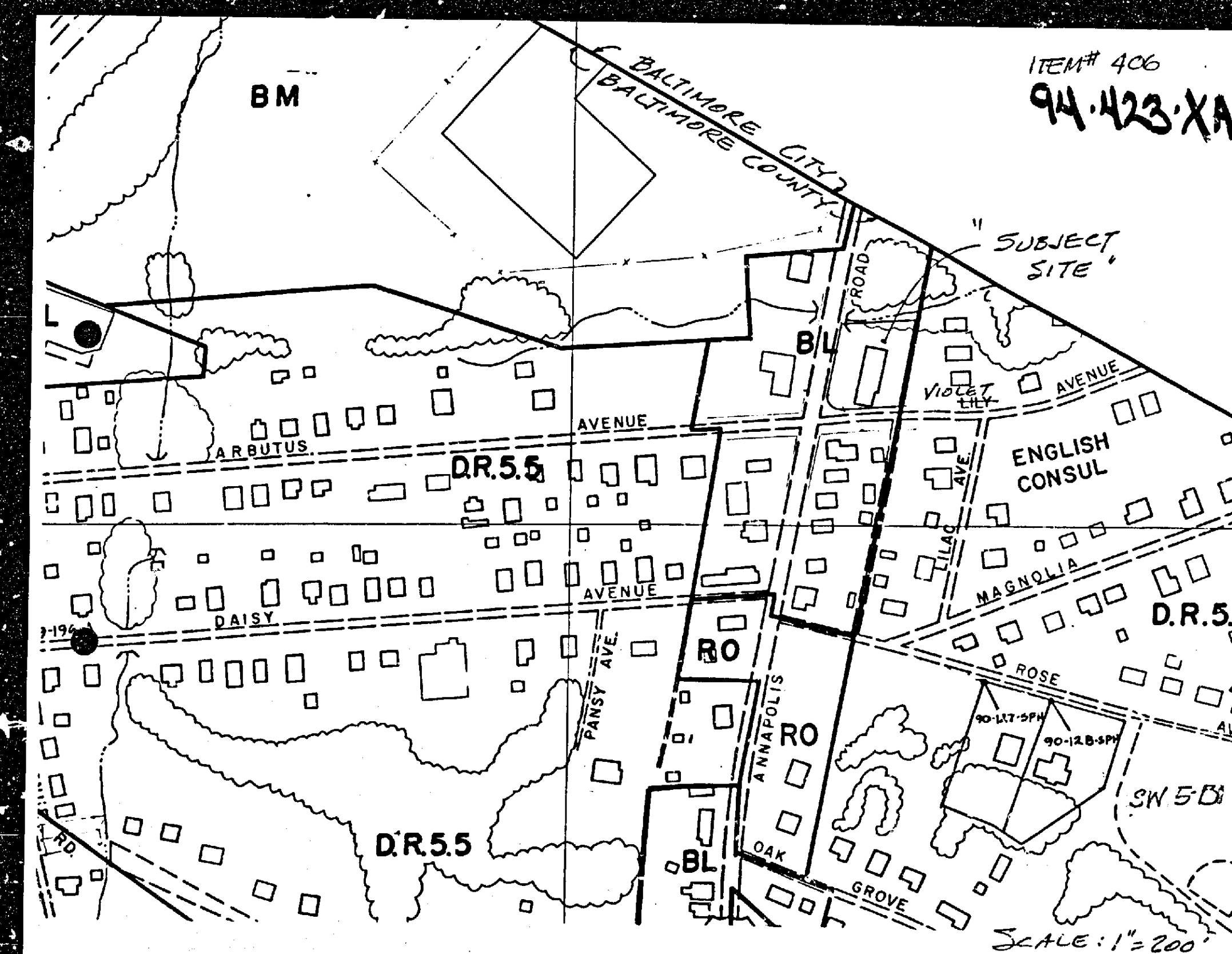


1. AREA OF PROPERTY • .0456 A.C.* ($.GK099 + .0597Ae^+$)
2. EXISTING ZONING OF PROPERTY • "BL"
3. EXISTING USE OF PROPERTY • "VACANT SERVICE STATION"
4. PROPOSED ZONING OF PROPERTY • "BL" W/ SPECIAL EXCEPTION "
5. PROPOSED USE OF PROPERTY • "MAAGO BODY & PAINT SHOP"
6. REQUIRED OFF-STREET PARKING - EXIST & PROP. 18 BAYS
EX. 1STY. BRICK METAL BLDG. : 9,820 S.F. @ 3.3/1000 = 12.61
PROP. 1STY. ADDITION : 2715 S.F. @ 3.3/1000 = 8.26
21.87 ± 22 F.S.
7. NO. OF PARKING SPACES SHOWN (INCL. 18 BAYS) * 12+18 = 30 P.S.
8. PETITIONER REQUESTING A SPECIAL EXCEPTION TO PERMIT A SERVICE GARAGE IN A "BL" ZONE.
9. PETITIONER REQUESTING A VARIANCE TO SECTION 232.1 OF THE DCCR TO PERMIT A SETBACK OF 20' FROM THE CENTER OF A STREET IN LIEU OF THE REQUIRED 40' (A VARIANCE OF 20').
10. PROPERTY SERVED BY PUBLIC UTILITIES.
11. PERMITTED P.A.R. * 3, PROPOSED P.A.R. * 6533 / 19,882 = 0.33
12. HOURS OF OPERATION: MON.-FRI. 8 A.M. - 5 P.M.
SAT. 9 A.M. - 12 NOON

SPECIAL EXCEPTION & VARIANCE
S.E. COR. ANNAPOLIS RD. & VIOLET AVE.

**PETITIONER'S
EXHIBIT 1**

Q4.423.XA
ITEM # 12



Paul Lee P.E.

Paul Lee Engineering Inc.
504 W. Pennsylvania Ave.
Towson, Maryland 21204
410 827 5341

DESCRIPTION

#3529 ANNAPOLIS ROAD

N.E. CORNER ANNAPOLIS RD. & VIOLET AVE.

ELECTION DISTRICT 13 BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the East side of Annapolis Road, said point also being located 26 feet ± from the center of Violet Avenue; thence binding on the East side of Annapolis Road (1) N 10°18'31" E - 128.19 feet, thence leaving said East side of Annapolis Road, (2) N 86°17'54" E - 129.25 feet and (3) S 10°18'31" W - 160.75 feet to the North side of Violet Avenue; thence binding on the North side of Violet Avenue (4) S 86°37'03" W - 97.25 feet and by a curve to the right (5) R = 25.00 feet for an arc length of 45.24 feet to the point of beginning.

Containing 0.456 Acres of land more or less.



3/4/94
J.O. 94-000

Engineers - Surveyors - Site Planners

94-423-XA

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 13th Date of Posting: 5/2/94
Posted for: Special Exception & Variance
Petitioner: Francisco X. Borgerding, Jr.
Location of property: 3529 Annapolis Road, NE Corner Violet Ave.
Location of Signs: Along Annapolis Rd. on property back road
Remarks:
Posted by: Arnold Jablon Date of return: 5/17/94
Number of Signs: 1

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the following petition for a Special Exception and Variance for a service garage, located at 3529 Annapolis Road, NE Corner Violet Avenue, 13th Election District - 1st Councilmanic District.
Petitioner(s): Francisco Figuero and Ada E. Figuero
Hearing: Wednesday, June 8, 1994 at 11:00 a.m. in Rm. 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Case #94-423-XA (Item 406)
3529 Annapolis Road
NE Corner Violet Avenue
13th Election District
1st Councilmanic District
Petitioner(s): Francisco Figuero and Ada E. Figuero
Hearing: Wednesday, June 8, 1994 at 11:00 a.m. in Rm. 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Special Exception for a service garage. Variance to permit a setback of 20 feet from the center of a street in lieu of the required 40 feet.
LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are handicapped accessible. For special accommodations please call 887-3353.
(2) For information concerning the file and/or hearing, please call 887-3391.
5/11/94 May 12

CERTIFICATE OF PUBLICATION

TOWSON, MD., 5/12, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/12, 1994

THE JEFFERSONIAN,
A. Henderson
LEGAL AD. - TOWSON

94-423-XA receipt
Zoning Administration & Development Management
Date: 5/2/94
Account #016150
Number of: 1
Please Make Checks Payable To Baltimore County
Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon, Director

For newspaper advertising:

Item No.: 1-1
Petitioner: Francisco Figuero
Location: 3529 Annapolis Road, NE Corner Violet Ave.
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Francisco Figuero
ADDRESS: 3529 Annapolis Road, NE Corner Violet Ave.
PHONE NUMBER: 410-887-3353

*MUST BE SUPPLIED

THE JEFFERSON PUBLISHING COMPANY
May 12, 1994 Issue - Jeffersonian

Please forward billing to:

Francis X. Borgerding, Jr.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-423-XA (Item 406)
3529 Annapolis Road
NE Corner Violet Avenue
13th Election District - 1st Councilmanic District
Petitioner(s): Francisco Figuero and Ada E. Figuero
HEARING: WEDNESDAY, JUNE 8, 1994 at 11:00 a.m. Rm. 118 Old Courthouse.

Special Exception for a service garage.
Variance to permit a setback of 20 feet from the center of a street in lieu of the required 40 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

MAY 5, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-423-XA (Item 406)
3529 Annapolis Road
NE Corner Violet Avenue
13th Election District - 1st Councilmanic District
Petitioner(s): Francisco Figuero and Ada E. Figuero
HEARING: WEDNESDAY, JUNE 8, 1994 at 11:00 a.m. Rm. 118 Old Courthouse.

Special Exception for a service garage.
Variance to permit a setback of 20 feet from the center of a street in lieu of the required 40 feet.

Arnold Jablon
Director

cc: Francisco and Ada Figuero
Francis X. Borgerding, Jr.

NOTES: (1) ZONING SIGN MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soy-based Ink
on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 31, 1994

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: Case No. 94-423-XA, Item No. 406
Petitioner: Francisco Figuero, et ux.
Petitions for Special Exception and Variance

Dear Mr. Borgerding:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on April 26, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Zoning Plans Advisory Committee Comments
Francis X. Borgerding, Jr.
Date: May 31, 1994
Page 2

2. Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.
3. Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Sincerely,

W. Carl Richardson, Jr.
W. Carl Richardson, Jr.
Zoning Supervisor

WCR:cm
Enclosures

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - NE/Corner Annapolis Road & Violet Avenue (3529 Annapolis Road) 13th Election District 1st Councilmanic District Francisco Figuero, et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 3529 Annapolis Road, located in the Catonsville area of western Baltimore County. The Petitions were filed by the owners of the property, Francisco and Ada Figuero, through their attorney, Francis X. Borgerding, Jr. The Petitioners seek a special exception to permit a service garage use of the subject property, zoned B.L., and variance relief from Section 232.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a street centerline setback of 20 feet in lieu of the required 40 feet for the existing building. The subject property and relief sought are more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Francisco Figuero, property owner, Paul Lee, Registered Professional Engineer, and the Petitioners' attorney, Francis X. Borgerding, Jr., Esquire. There were no Protestants present.

Testimony revealed that the subject property consists of 0.456 acres, more or less, zoned B.L. and is improved with a one story brick and metal building which is currently vacant. The Petitioners are desirous of locating a Masco Body and Paint Shop on the premises, utilizing the existing building, and propose to construct a 2,715 sq.ft. addition to the rear

of the building in accordance with Petitioner's Exhibit 1. Due to the proposed change in use of the subject site, the requested special exception is necessary. In addition, the variance relief sought is necessary in order to legalize the existing building, which has been on the site for many years, and not as a result of the proposed improvements. Testimony indicated the relief requested meets the special exception requirements of Section 502.1 of the B.C.Z.R. and will not result in any detriment to the surrounding locale.

It is clear that the B.C.Z.R. permits the use proposed in a B.L. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Fritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes

of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use

of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the special exception and variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of June, 1994 that the Petition for Special Exception to permit a service garage use of the subject property, zoned B.L., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 232.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a street centerline setback of 20 feet in lieu of the required 40 feet for the existing building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Prior to the issuance of any permits, the Petitioners shall submit a landscape plan for review and approval by Avery Harden, Landscape Architect for Baltimore County.
- 3) When applying for a building permit, the site plan and landscaping plan filed must reference this

case and set forth and address the restrictions of this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

June 27, 1994

(410) 887-4380

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
NE/Corner Annapolis Road & Violet Avenue
(3529 Annapolis Road)
13th Election District - 1st Councilmanic District
Francisco Figuero, et ux - Petitioners
Case No. 94-423-XA

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Francisco Figuero
7805 Nautitan Court, Hanover, MD. 21076

People's Counsel

File



Petition for Special Exception
to the Zoning Commissioner of Baltimore County

for the property located at 3529 Annapolis Rd., Baltimore, MD 21237
which is presently zoned B.L.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a service garage in a "B.L." zone.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Francis X. Borgerding, Jr.

Address

City State Zipcode

Phone No.

ESTIMATED LENGTH OF HEARING

the following date

ALL OTHER

REVIEWED BY: RT DATE 7-26-94

ORDER RECEIVED FOR FILING
Date 7/26/94
By [Signature]

94-423-XA



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 3529 Annapolis Rd., Baltimore, MD 21237
which is presently zoned B.L.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 232.1 of the BCZR to permit a setback of 20 feet from the center of a street in lieu of the required 40 feet. (A variance of 20 feet).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. Shape and configuration of the property; and
2. Such other and further reasons as will be presented at the time of the hearing of this matter.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Francis X. Borgerding, Jr.

Address

City State Zipcode

Phone No.

ESTIMATED LENGTH OF HEARING

the following date

ALL OTHER

REVIEWED BY: RT DATE 7-26-94

ORDER RECEIVED FOR FILING
Date 7/26/94
By [Signature]

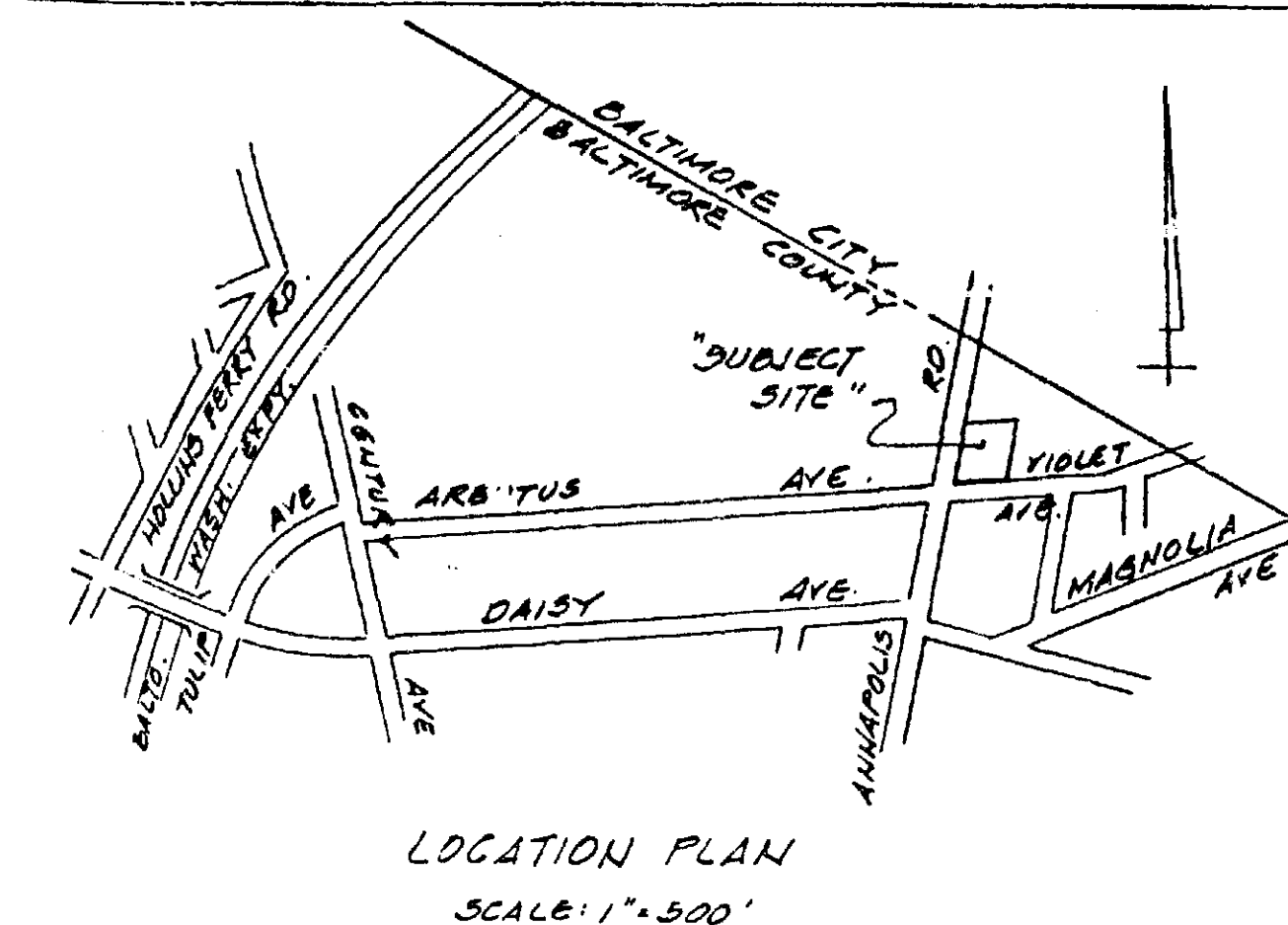
ESTIMATED LENGTH OF HEARING

the following date

ALL OTHER

REVIEWED BY: RT DATE 7-26-94

ITEM # 406



1. AREA OF PROPERTY • .0456 A.C.* (.GK099 + .0597 Ac.*)
2. EXISTING ZONING OF PROPERTY • "BL"
3. EXISTING USE OF PROPERTY • "VACANT SERVICE STATION"
4. PROPOSED ZONING OF PROPERTY • "BL" W/ SPECIAL EXCEPTION*
5. PROPOSED USE OF PROPERTY • "MAAAGO BODY & PAINT SHOP"
6. REQUIRED OFF-STREET PARKING - EXIST'N PROR. 18 BAYS
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PROR. 1STY. ADDITION = 2715 S.F.* @ 3.3/1000 = $\frac{8.26}{21.87}$ = 22 F.S.
7. NO. OF PARKING SPACES SHOWN (INCL. 18 BAYS) * 12+18 = 30 P.S.
8. PETITIONER REQUESTING A SPECIAL EXCEPTION TO PERMIT A SERVICE GARAGE IN A "BL" ZONE.
9. PETITIONER REQUESTING A VARIANCE TO SECTION E32.1 OF THE DCCR TO PERMIT A SETBACK OF 20' FROM THE CENTER OF A STREET IN LIEU OF THE REQUIRED 40' (A VARIANCE OF 20').
10. PROPERTY SERVED BY PUBLIC UTILITIES.
11. PERMITTED P.A.R. * 3, PROPOSED P.A.R. * 6533 / 19,882 = 0.33
12. HOURS OF OPERATION: MON.-FRI. 8.A.M. - 5.P.M.

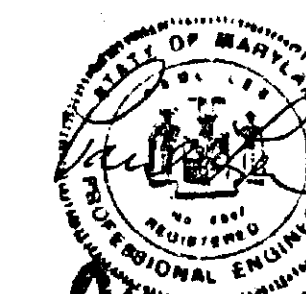
SAT. 9.A.M. - 12 NOON

SPECIAL EXCEPTION & VARIANCE
S.E. COR. ANNAPOLIS RD. & VIOLET AVE.

BALTIMORE COUNTY, MD.
MAR. 1994

**PETITIONER'S
EXHIBIT 1**

PAUL LEE ENGINEERING, INC.
304 W. PENNSYLVANIA AVENUE
TOMSON, MARYLAND 21204



94-423-X
ITEM # 406

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 17, 1994
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section
RE: Zoning Advisory Committee Meeting
for May 16, 1994
Item No. 406

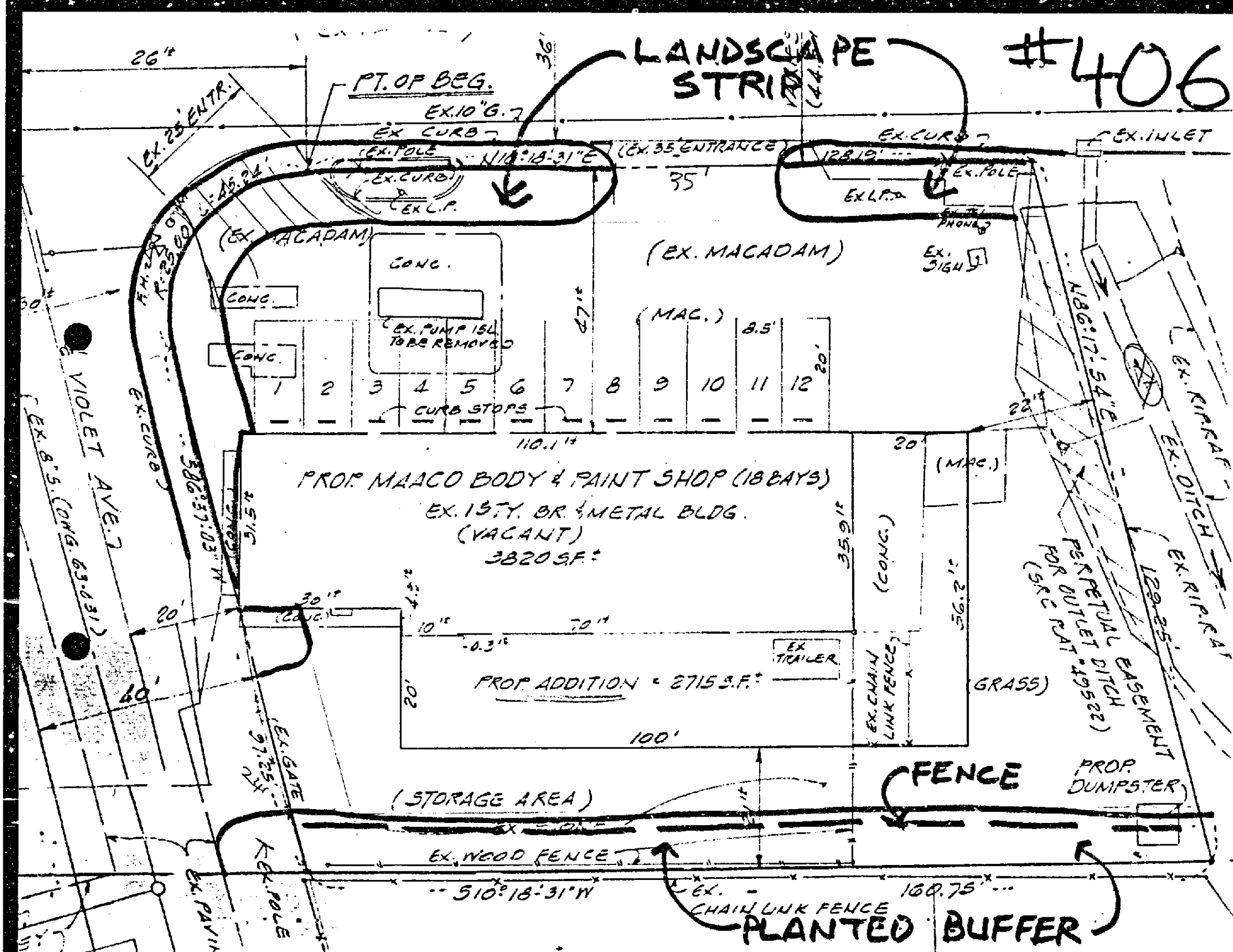
The Developers Engineering Section has reviewed the subject zoning item. This site is subject to the Baltimore County Development Regulations, Divisions 3, 4 and 5. Also, see the Department of Public Works Standard Plate R-19, a minimum 20-foot building setback is required from the flood plain free board pipe.

Additionally, any improvements affecting the State Road right-of-way are subject to the approval of the State Highway Administration.

The following landscape manual issues must be accommodated as a condition of approval of the special exception and variance request:

1. Ten foot wide landscape buffer area must be provided against the eastern residential property line. Class "A" plantings and a 6-foot high opaque wood fence shall be provided in the buffer area.
2. A 10-foot wide landscape strip must be provided against the public streets. It shall be vegetated with the required street trees and Class "B" plantings. (See the attached sketch.)
3. A schematic landscape plan must be submitted and approved as a condition of approval of the development plan.

RWB:en



111 West Chesapeake Avenue
Towson, MD 21204

June 1, 1994

(410) 887-3353

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: Case No. 94-423-XA, Item No. 406
Petitions for Special Exception and Variance

Dear MR. Borgerding:

Enclosed are copies of comments received from the Office of Planning and Zoning on May 31, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Charlotte Minton
Charlotte Minton

Enclosure

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
FROM: Pat Keller, Director
Office of Planning and Zoning
DATE: May 24, 1994
SUBJECT: 3529 Annapolis Road

INFORMATION:

Item Number: 406 (94-423-XA)

Petitioner: Francisco Figuero

Property Size:

Zoning: B.L.

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided and analysis conducted, staff recommends the following condition should the applicant's request be granted:

- Install a new board on board fence along the south and east property lines. The fence should be set back 10 feet from the property line to allow for a evergreen planting buffer between the fence and the property line.
- The balance of the site should be brought into full compliance with the Landscape Manual.

Prepared by: *Jeffrey W. Long*

Division Chief: *Gary Kern*

PK/JL:lw

ZAC.406/PZONE/ZAC1

Pg. 1

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

RECEIVED
MAY 6 1994

DATE: 05/05/94

ZADM

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: FRANCISCO FIGUERO & ADA E. FIGUERO

LOCATION: NEC ANNAPOLIS RD. & VIOLET AVE. (3529 ANNAPOLIS RD.)

Item No.: 406

Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED
MAY 6 1994

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed with System Ink
on Recycled Paper

RE: PETITION FOR SPECIAL EXCEPTION*
PETITION FOR VARIANCE
NEC Annapolis and Violet
Avenue (3529 Annapolis Road)
13th Election Dist.,
1st Councilmanic Dist.
FRANCISCO FIGUERO, et al.
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 94-423-XA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

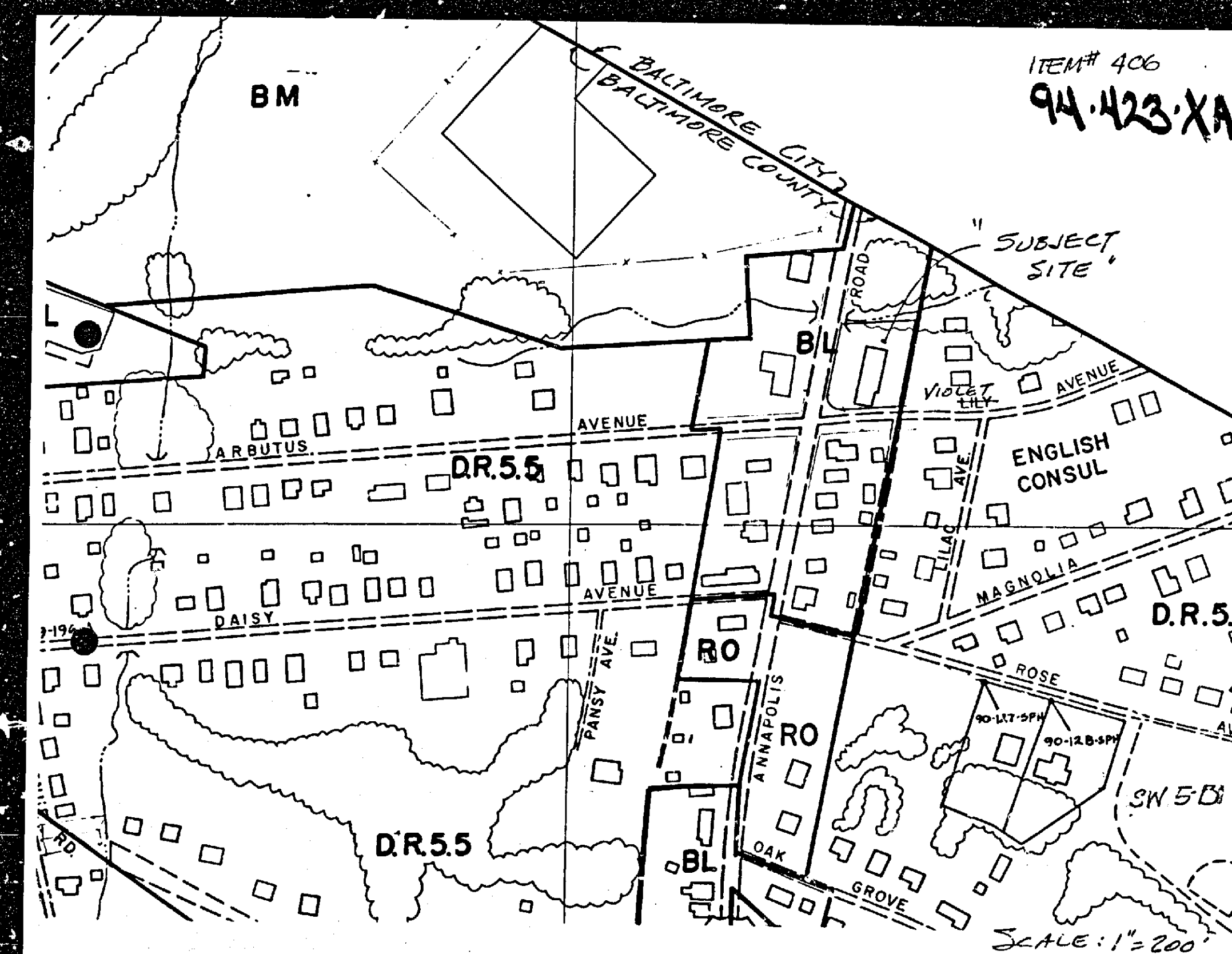
Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Charles S. DeMilio
CHARLES S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Jr., Esquire, 409 Washington Avenue, Suite 600, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - NE/Corner Annapolis Road & Violet Avenue (3529 Annapolis Road) 13th Election District 1st Councilmanic District Francisco Figuero, et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property known as 3529 Annapolis Road, located in the Catonsville area of western Baltimore County. The Petitions were filed by the owners of the property, Francisco and Ada Figuero, through their attorney, Francis X. Borgerding, Jr. The Petitioners seek a special exception to permit a service garage use of the subject property, zoned B.L., and variance relief from Section 232.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a street centerline setback of 20 feet in lieu of the required 40 feet for the existing building. The subject property and relief sought are more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Francisco Figuero, property owner, Paul Lee, Registered Professional Engineer, and the Petitioners' attorney, Francis X. Borgerding, Jr., Esquire. There were no Protestants present.

Testimony revealed that the subject property consists of 0.456 acres, more or less, zoned B.L. and is improved with a one story brick and metal building which is currently vacant. The Petitioners are desirous of locating a Masco Body and Paint Shop on the premises, utilizing the existing building, and propose to construct a 2,715 sq.ft. addition to the rear

of the building in accordance with Petitioner's Exhibit 1. Due to the proposed change in use of the subject site, the requested special exception is necessary. In addition, the variance relief sought is necessary in order to legalize the existing building, which has been on the site for many years, and not as a result of the proposed improvements. Testimony indicated the relief requested meets the special exception requirements of Section 502.1 of the B.C.Z.R. and will not result in any detriment to the surrounding locale.

It is clear that the B.C.Z.R. permits the use proposed in a B.L. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Fritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes

of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use

of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the special exception and variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of June, 1994 that the Petition for Special Exception to permit a service garage use of the subject property, zoned B.L., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 232.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a street centerline setback of 20 feet in lieu of the required 40 feet for the existing building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Prior to the issuance of any permits, the Petitioners shall submit a landscape plan for review and approval by Avery Harden, Landscape Architect for Baltimore County.
- 3) When applying for a building permit, the site plan and landscaping plan filed must reference this

case and set forth and address the restrictions of this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

June 27, 1994

(410) 887-4380

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
NE/Corner Annapolis Road & Violet Avenue
(3529 Annapolis Road)
13th Election District - 1st Councilmanic District
Francisco Figuero, et ux - Petitioners
Case No. 94-423-XA

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above captioned matter. The Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Francisco Figuero
7805 Nautitan Court, Hanover, MD. 21076

People's Counsel

File



Petition for Special Exception
to the Zoning Commissioner of Baltimore County

for the property located at 3529 Annapolis Rd., Baltimore, MD 21237
which is presently zoned B.L.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a service garage in a "B.L." zone.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Francis X. Borgerding, Jr.

Address

City State Zipcode

Phone No.

ESTIMATED LENGTH OF HEARING

the following date

ALL OTHER

REVIEWED BY: RT DATE: 7-26-94

DATE

By

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s):

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Francis X. Borgerding, Jr.

Address

City State Zipcode

Phone No.

ESTIMATED LENGTH OF HEARING

the following date

ALL OTHER

REVIEWED BY: RT DATE: 7-26-94

DATE

By



Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 3529 Annapolis Rd., Baltimore, MD 21237
which is presently zoned B.L.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 232.1 of the BCZR to permit a setback of 20 feet from the center of a street in lieu of the required 40 feet. (A variance of 20 feet).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. Shape and configuration of the property; and
2. Such other and further reasons as will be presented at the time of the hearing of this matter.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Leasee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Francis X. Borgerding, Jr.

Address

City State Zipcode

Phone No.

ESTIMATED LENGTH OF HEARING

the following date

ALL OTHER

REVIEWED BY: RT DATE: 7-26-94

DATE

By

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s):

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Francis X. Borgerding, Jr.

Address

City State Zipcode

Phone No.

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the following date

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DATE

By